

Appl. No. 10/666,288
Amdt dated April 3, 2006
Reply to Office Action of Nov. 2, 2005

Remarks

Reconsideration of the application in view of the following remarks is respectfully requested.

The Examiner is sincerely thanked for the courtesy shown to applicant and applicant's representative during the telephone discussion of February 9, 2006 and to the applicant's representative during the telephone discussions of March 31, 2006 and April 3, 2006.

Section II - Amendments to the claims

Claims 18-31 remain in this application. Claims 52-56 are new. Claims 1-17 and 32-51 were previously withdrawn. Claims 18-31 are presently amended. Claims 19-31 were amended to correct various informalities.

Rejection of claims 18-31 over Lesh et al. in view of Laufer et al.

The last office action stated that "Claims 18-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lesh et al. (6,650,923) in view of Laufer et al. (6,106,520)."

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Applicant respectfully requests reconsideration of this rejection for reasons that are described hereinbelow.

Amended claim 18 now includes the following limitation:

- energizing the energy delivery device and using the now energized energy delivery device to create a channel through the material by delivering energy into the material.
(Emphasis added)

None of the documents cited in the outstanding Office action teaches or even hint at this limitation. To the contrary, the two documents cited by the Examiner describe a device wherein a needle is used to pierce a tissue to create a hole.

Indeed, Lesh et al. discloses the use of a needle or other piercing instrument in order to puncture the fossa ovalis and makes no mention of energy delivery in conjunction with the puncture. Laufer et al. similarly discloses the creation of holes in heart tissue using a sharp needle, following which energy may be delivered in order to create "reversible tissue damage". Thus, neither Lesh nor Laufer disclose nor suggest the delivery of energy to create a channel, as claimed by applicant.

In view of the aforementioned arguments, applicant respectfully submits that independent claim 18 recites patentably subject matter and is therefore in condition for allowance.

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Claims 19-31 and new claims 52-56 depend either directly or indirectly from claim 18 and therefore incorporate all the limitations of claim 18. Consequently, the Applicant believes that claims 19-31 and 52-56 are allowable for the reasons stated hereinabove.

It is respectfully submitted that when the rejection of the claims is reviewed in light of Applicant's arguments, the invention without a doubt should be considered patentably distinguished over the currently applied references. It is now believed the above application is in order for Allowance and such action would be appreciated.

Very respectfully submitted,



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Agent for the Applicant